104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 104–86

USEC PRIVATIZATION ACT

MARCH 23, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BLILEY, from the Committee on Commerce, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 1216]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 1216) to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

The amendment is as follows:

99–006

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 2. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 3. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

SEC. 4. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b–4(e)(1)(2)) are amended to read as follows:

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking "AND DETAILEES" in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(4) by striking the last sentence.

SEC. 5. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(2) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, in-

cluding the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(d) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(e) LIABILITIES.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(f) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

SEC. 6. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) TAX TREATMENT OF PRIVATIZATION.—

"(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

"(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatiza-

tion date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(e) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by subsection (d)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(f) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitations.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.
"Sec. 1507. Application of Privatization Proceeds.".

(g) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(h) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and

inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

SEC. 7. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

SEC. 8. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f–1(a)) is amended by striking "other than" and inserting "including".

SEC. 9. CONFORMING AMENDMENTS.

(a) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—
(1) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:
(A) Section 1202.
(B) Sections 1301 through 1304.
(C) Sections 1306 through 1316.
(D) Sections 1404 and 1405.
(E) Section 1601.
(F) Sections 1603 through 1607.
(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:
(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 6(a)).
(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".
(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102–486.

(c) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b–4) is amended—
(1) by repealing subsections (a), (b), (c), and (d), and
(2) in subsection (e)—
(A) by striking the subsection designation and heading,
(B) by redesignating paragraphs (1) and (2) (as added by section 4(a)) as subsections (a) and (b) and by moving the margins 2-ems to the left,
(C) by striking paragraph (3), and
(D) by redesignating paragraph (4) (as amended by section 4(b)) as subsection (c), and by moving the margins 2-ems to the left.

PURPOSE AND SUMMARY

The purpose of H.R. 1216, the "USEC Privatization Act." is to facilitate the privatization of the United States Enrichment Corporation (USEC). The legislation contains provisions to increase the return to the taxpayers from the sale of the Corporation by enhancing the value of the Corporation to potential purchasers or shareholders, and by eliminating burdensome statutory requirements for the privatized corporation.

BACKGROUND AND NEED FOR LEGISLATION

The United States Enrichment Corporation (USEC) is a government corporation established by Title IX of the Energy Policy Act

of 1992 (EPAct). USEC produces and markets uranium enrichment services to more than 60 utilities which own and operate commercial nuclear power plants in the United States and 11 foreign countries (90 percent of the domestic market and 40 percent of the world market). It operates two enrichment facilities located in Paducah, Kentucky and Portsmouth, Ohio with total employment of approximately 4,500. The Corporation has annual revenues of approximately $1.5 billion.

Prior to the creation of USEC, the Department of Energy's uranium enrichment program supplied enriched uranium for use at commercial nuclear power plants. At that time, uranium enrichment was the only part of the nuclear fuel cycle related to production or use that was not a private sector responsibility. The U.S. has a near-monopoly on the world uranium enrichment market until the 1970s, at which time competition from foreign competitors began to significantly erode U.S. market share. Today, less than half of the world market is served by U.S. enrichment services. In passing EPAct, Congress recognized the dangers this situation presented for maintaining a viable U.S. presence in the uranium enrichment market and took the first step toward privatization by creating the quasi-governmental USEC. H.R. 1216 establishes the framework for full privatization and will provide the Corporation with the additional operating flexibility needed to ensure a future for the domestic uranium and unranium enrichment industries.

EPAct directs the Corporation to submit a strategic plan for privatization to Congress and the President by July 1, 1995. The plan must consider alternative means of transferring ownership of USEC to the private sector and contain the Corporation's recommendation as to its preferred method of privatization. Under UPAct, the Corporation may not implement the privatization plan without approval of the President, nor less than 60 days after notifying Congress of its intent to implement the plan.

In creating USEC, the Congress laid out three principles for the Corporation to follow: first, that the Corporation must be treated like a private corporation to the fullest extent practicable; second, that the Corporation must be a profit maximizer; third, that the Corporation must pay its own way. It is intended that the full privatization of the Corporation will continue to follow these principles, and allow for the creation of a private entity which will provide a maximum return for the taxpayer's investment in the Corporation and which will be a strong and economically viable force in the market. The Corporation must not be burdened with additional layers of bureaucracy not required of other private business entities. The Corporation must also be allowed to maximize its profits in the private sector, making itself an attractive investment opportunity and paving the way for a healthy and vigorous life in American business. A key component of this effort will be additional research on and development of uranium enrichment technologies, including the Atomic Vapor Laser Isotope Separation (AVLIS) technology. This technology was transferred to the Corporation in EPAct, and it is expected that further development of AVLIS will be accomplished without the benefit of federal subsidization.

The Administration indicated support for the privatization of the Corporation in its Fiscal Year 1996 budget request to Congress. It estimates that proceeds from the sale will return $1.5 to $1.9 billion to the U.S. treasury. Privatization of the Corporation will ensure the future of the domestic uranium and uranium enrichment industries and will provide significant returns to the Federal treasury, both from the proceeds of the initial sale and tax revenues and royalty payments generated from the privatized corporation.

HEARINGS

On February 24, 1995, the Subcommittee on Energy and Power held a hearing on privatization of the United States Enrichment Corporation. Witnesses included: Mr. William J. Timbers, Jr., President, United States Enrichment Corporation; Mr. Robert Bernero, Director, Office of Nuclear Material, Safety and Safeguards, United States Nuclear Regulatory Commission; Mr. Victor Rezendes, Director, Energy and Science Issues, United States General Accounting Office; Mr. James Derryberry, Managing Director, J.P. Morgan and Associates; and Mr. William Magavern, Director, Critical Mass Energy Project, Public Citizen.

COMMITTEE CONSIDERATION

On March 15, 1995, the Committee met in open session to consider H.R. 1216. The Committee ordered reported the bill H.R. 1216, with amendments, by a voice vote, a quorum being present.

ROLLCALL VOTES

Pursuant to clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, following are listed the recorded votes on the motion to report H.R. 1216 and on amendments offered to the measure, including the names of those Members voting for and against.

COMMITTEE ON COMMERCE—104TH CONGRESS

ROLLCALL VOTE NO. 36

Bill: H.R. 1216, USEC Privatization Act.

Amentment: Amendment by Mr. Brown re: direct the proceeds from the sale of U.S. Enrichment Corporation be used for deficit reduction.

Disposition: Not agreed to, by a roll call vote of 14 ayes to 20 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley		X		Mr. Dingell			
Mr. Moorhead		X		Mr. Waxman	X		
Mr. Fields				Mr. Markey	X		
Mr. Oxley		X		Mr. Tauzin	X		
Mr. Bilirakis		X		Mr. Wyden			
Mr. Schaefer		X		Mr. Hall			
Mr. Barton				Mr. Byrant			
Mr. Hastert				Mr. Boucher	X		
Mr. Upton		X		Mr. Manton	X		
Mr. Stearns				Mr. Towns	X		
Mr. Paxon		X		Mr. Studds			

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Gillmor				Mr. Pallone		X	
Mr. Klug		X		Mr. Brown	X		
Mr. Franks				Mrs. Lincoln			
Mr. Greenwood		X		Mr. Gordon	X		
Mr. Crapo		X		Ms. Furse	X		
Mr. Cox		X		Mr. Deutsch	X		
Mr. Burr		X		Mr. Rush	X		
Mr. Bilbray		X		Ms. Eshoo	X		
Mr. Whitfield		X		Mr. Klink	X		
Mr. Ganske		X		Mr. Stupak	X		
Mr. Frisa		X					
Mr. Norwood		X					
Mr. White		X					
Mr. Coburn		X					

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Energy and Power conducted an oversight hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of1974.

However, the Committee notes that the CBO estimate of the net value of uranium materials proposed to be transferred to the Corporation by the Department of Energy is appraised conservatively at $100 million. While the Committee does not dispute the CBO's analysis, it is important to consider other estimates in assessing the value of these materials. For example, the Department of Energy's estimate of the value of its uranium materials in the Administration's proposed Fiscal Year 1996 budget is $400 million. The Committee understands that private sector estimates of the value of these materials exceed even the Department's assessment. It is important to recognize that receipts from the sale of these uranium materials may far exceed the CBO's expectations.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 1995.

Hon. THOMAS J. BLILEY, JR.,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1216, the USEC Privatization Act.

Enactment of H.R. 1216 would affect direct spending; therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1216.
2. Bill title: USEC Privatization Act.
3. Bill status: As ordered reported by the House Committee on Commerce on March 15, 1995.
4. Bill purpose: H.R. 1216 would convert the United States Enrichment Corporation (USEC) from federal to private ownership. USEC is a government corporation, created by the Energy Policy Act of 1992 (Public Law 102–486), to provide uranium enrichment services to operators of nuclear powerplants. In preparation for making this enterprise a private entity, the corporation was created from the uranium enrichment program formerly run by the Department of Energy (DOE). The Energy Policy Act of 1992 envisions privatization of USEC, but several issues must be resolved before the government can complete a transfer from federal to private ownership. H.R. 1216 addresses several such issues, as outlined below.

The bill would clarify the roles of USEC and DOE with respect to the treatment of low-level radioactive waste and mixed waste generated by the corporation, the transfer of assets and liabilities from the government to a corporation that is privately owned, and the general procedure for establishing such a private corporation. H.R. 1216 also would authorize DOE to transfer to the corporation raw uranium, low-enriched uranium, and highly enriched uranium. In addition, the bill would clarify changes in USEC's legal status as it transfers from public to private ownership. It includes provisions governing how a private USEC would be regulated under the Occupational Safety and Health Act of 1970, how a private USEC would be treated under provisions of the Atomic Energy Act of 1954, and what limitations would apply to the foreign ownership of USEC stock.

Finally, the bill would direct that proceeds from the sale of the corporation be treated as an offset to direct spending for the purpose of pay-as-you-go calculations under the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). Receipts from

nonroutine asset sales, such as the sale of USEC, are not counted as an offset to direct spending under current law. (The prohibition against "counting" the receipts from nonroutine asset sales is contained in the Congressional Budget and Impoundment Control Act of 1974, as amended by BBEDCA).

5. Estimated cost to the Federal Government: While it is possible the USEC could become a private corporation under current law, such action does not appear likely. Hence, CBO assumes that the corporation would remain as a government-owned entity under current law and that H.R. 1216 would be sufficient to resolve issues associated with the proposed privatization. Under H.R. 1216, it is possible that the USEC would not be transferred to private ownership, but we have no reason to assume that outcome. As a result, CBO estimates that enacting H.R. 1216 would lead to a sale of USEC over the 1996–1997 period, and that completing that sale would have the budgetary impact shown in the following table:

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Federal Spending Under Current Law:					
Estimted Budget Authority	0	0	0	0	0
Estimated Outlays	−183	−88	10	88	159
Changes Resulting from H.R. 1216:					
Direct Spending:					
Estimted Budget Authority	0	0	0	0	0
Estimated Outlays	150	8	−10	−88	−159
Proceeds of Asset Sale:					
Estimted Budget Authority	−500	−1,100	0	0	0
Estimated Outlays	−500	−1,100	0	0	0
Federal Spending Under H.R. 1216:					
Estimted Budget Authority	−500	−1,100	0	0	0
Estimated Outlays	−533	−1,180	0	0	0

The budgetary impact of this bill falls within budget function 270.

Based on information provided by USEC, DOE, the Office of Management and Budget (OMB), and the Department of the Treasury, CBO estimates that enacting H.R. 1216 would result in a sale of the corporation over fiscal years 1996 and 1997 for net proceeds of about $1.6 billion. These estimated proceeds would constitute receipts of a nonroutine asset sale, as defined by section 250 of the Congressional Budget and Impoundment Control Act of 1974. CBO also estimates, based in information from the Administration, that H.R. 1216 would result in increased direct spending of about $150 million in 1996 and $8 million in 1997 to prepare for and complete the sale of USEC. These costs would cover necessary equipment and facility upgrades, as well as transaction fees for conducting the sale.

H.R. 1216 would reduce direct spending over the 1998–2000 period because once USEC is sold, its net spending estimated under current law would no longer appear in the federal budget. As shown in the table, CBO estimates that these savings would total about $260 million for 1998 through 2000.

The bill would require DOE to handle treatment, storage, and disposal of low-level radioactive waste and mixed waste from USEC operations even after USEC becomes private. But such activities would be a federal function in any event if the corporation were to

remain government-owned. Moreover, H.R. 1216 would require that USEC reimburse DOE for costs associated with handling USEC wastes just as it does now. Hence, CBO estimates that this provision would not result in any significant impact on appropriations to DOE for handling low-level radioactive and mixed wastes.

Both the amount and the timing of the asset sale receipts are uncertain. Potential purchasers will determine the market value of USEC. That value may depend on how the privatization is implemented—through a negotiated sale, a stock sale, or a public offering. The market value also will depend on how potential purchasers evaluate USEC's existing contracts for providing enrichment services and the likely opportunities for augmenting that contract base with new service contracts. Finally, USEC's sale price also will depend on how much value potential purchasers assign to any uranium materials transferred to the corporation from DOE (as authorized in the bill).

Taken together, CBO estimates that the above factors place the likely net sale price in a range from $1.3 billion to $1.9 billion. By *net sale price,* we mean the net proceeds obtained by the government after any transfer of USEC cash balances held by the Treasury. The corporation could be sold with varying amounts of cash transferred as part of the sale agreement. Gross proceeds could include the right to significant amounts of USEC's cash balance—currently more than $800 million; but the net sale price would reflect any such federal outlays that occur as part of the ownership transfer.

On the one hand, if all potential purchasers are somewhat pessimistic about the value of USEC's current contracts and prospects for new profitable contracts, and if little net value is assigned to the transfer of DOE uranium materials, the sale price could be $300 million less than our best estimate of $1.6 billion. The low estimate of $1.3 billion in net proceeds assumes that the purchaser would be willing to pay very little beyond USEC's cash value at the time of sale. (CBO estimates that the Treasury cash balance will total at least $1 billion by the end of fiscal year 1996).

On the other hand, selling USEC could yield nearly $2 billion in net proceeds if at least one bidder for the corporation either has a more optimistic view of the uranium enrichment market or assigns a relatively high value to uranium materials transfered to USEC by DOE. In particular, DOE has proposed transferring a combination of raw uranium and highly enriched uranium that it estimates would be worth at least $400 million to the purchaser of USEC. Because the market for natural uranium is already depressed by weak demand relative to potential supplies, and because there could be both technical and cost problems associated with processing highly enriched uranium, there is some doubt as to whether USEC's market value would increase by as much as $400 million with the proposed transfer of materials. CBO's estimate of net sale receipts totaling $1.6 billion assumes $100 million of increased value associated with such a transfer from DOE.

With regard to the timing of the sale, our estimate reflects the assumption that the Administration would begin sale proceedings in 1996, but that completion of the sale would occur in 1997. (This assumption mirrors the timing assumption underlying the Presi-

dent's recent budget proposal). It may be possible to complete privatization of USEC in 1996, and the corporation is likely to attempt to do so. Completion of the sale, however, depends on actions by the Department of the Treasury and final approval by the President, as well as finding a purchaser that can complete the transactions. CBO believes that these factors could easily delay completion of the sale until sometime in fiscal year 1997.

Finally, it is possible that USEC privatization would not occur at all, particularly if the government determines that no sale can result in sufficient revenues to meet the criteria established in the Energy Policy Act of 1992 and in H.R. 1216. The bill requires a determination by the Secretary of Energy that a sale conducted through a public offering would result in the government obtaining "an adequate amount" of proceeds. In addition, the Energy Policy Act of 1992 requires that USEC prepare a privatization plan and notify the Congress of its intent to implement the plan. Within 30 days of such notification, the General Accounting Office (GAO) is required to report on whether the proceeds form USEC privatization are likely to represent at least the net present value of the corporation. The DOE and GAO evaluations could stop a proposed sale of USEC, but we have no reason to expect that outcome at this time.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedure for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 1216 would affect direct spending; therefore, pay-as-you-go procedures would apply to the bill. Preparing for and completing the sale is likely to increase federal costs in the short term, primarily in fiscal year 1996. Based on information provided by the administration, CBO estimates that such costs will increase outlays by $150 million in 1996 and $8 million in 1997.

Once USEC is sold, its net spending would no longer be included in the federal budget. Since CBO currently projects positive net spending of $10 million for fiscal year 1998, completing the sale in fiscal year 1997 would reduce outlays relative to current law by $10 million in 1998. (CBO estimates additional reductions in direct spending for fiscal years 1999 and 2000, but those years are behind the current window for pay-as-you-go impacts.)

Because the bill includes language that would require the use of the sale proceeds for USEC as an offset to direct spending for pay-as-you-go purposes, the following table shows an estimated pay-as-you-go impact that includes receipts of $500 million in 1996 and $1,100 million in 1997. Under current law, and under the 1995 budget resolution, the receipts from nonroutine assets sales would not count as an offset to direct spending.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	−350	−1,092	10
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

Estimated cost to State and local governments: None.

8. Estimate comparison: In the President's budget for fiscal year 1996, the Administration proposes the sale of USEC and estimates net proceeds of $1.9 billion over 1996–1997, as compared to CBO's estimate of $1.6 billion. The difference in these estimates is attributable to the Administration's higher estimate of the value of uranium materials proposed for transfer from DOE to USEC prior to sale.

9. Previous CBO estimate: None.

10. Estimate prepared by: Pete Fontaine.

11. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill would have no inflationary impact.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1. SHORT TITLE AND REFERENCE

This section provides that the Act may be cited as the ''USEC Privatization Act.'' It also provides that, except as otherwise expressly provided, references to sections in the Act shall be considered to be made to sections or other provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SECTION 2. PRODUCTION FACILITY

This section amends the definition of the term ''production facility'' set forth in section 11 of title I of the Atomic Energy Act (AEA) to exclude the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation (AVLIS) technology from the definition of production facility. As a result, any uranium enrichment facility using AVLIS technology would be eligible for one-step licensing under the materials licensing provisions of sections 53 and 63 of the AEA.

SECTION 3. DEFINITIONS

This section amends certain definitions contained in, and adds certain definitions to, section 1201 of the AEA. These changes are described below.

The term ''Corporation'' is amended to include any successor corporation established through privatization of the Corporation.

The term ''low-level radioactive waste'' is defined for purposes of the AEA by reference to the term's definition under the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

The term ''mixed waste'' is defined for purposes of the AEA by reference to the term's definition under the Solid Waste Disposal Act (42 U.S.C. 6903 (41)).

The term ''privatization'' is defined as the transfer of ownership of the Corporation to private investors pursuant to chapter 25 of the AEA.

The term "privatization date" is defined as the date on which 100 percent of ownership of the Corporation has been transferred to private investors.

The term "transition date" is defined as July 1, 1993.

SECTION 4. EMPLOYEES OF THE CORPORATION

This section provides certain protections for the employees of the privatized corporation. Section 4(a) provides that the privatization shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation. Currently, these pension benefits are held by a third party, typically the private employment contractor at the plant site. As such, the benefits already receive the protection and benefits of the Pension Benefit Guaranty Corporation should a default of the pension plan occur. This section is intended to prevent the privatized corporation from taking actions which would result in any adverse affects to these pension benefits. Section 4(a) also provides that the Corporation shall abide by the terms of any collective bargaining agreement that is in effect on the privatization date at each facility.

Section 4(b) deletes provision relating to department detailees. Such provisions are no longer necessary in that there are no Department of Energy employees currently detailed to the Corporation. This section also clarifies current law which provides that employees of the Corporation who transferred to the Corporation from other Federal employment have the option to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system.

SECTION 5. MARKETING AND CONTRACT AUTHORITY

Section 5(a) amends section 1401(a) of the AEA to eliminate the Corporation's authority to act as the exclusive marketing agent on behalf of the United States Government for the provision of enriched uranium and uranium enrichment and related services. This change will not prevent the Government, acting through the Department of Energy (DOE) or otherwise, from entering into marketing arrangements with the Corporation or any other qualified private sector entity in the future. The prohibition in section 1401(a) against the DOE marketing enrichment uranium (including low-enriched uranium derived from highly enriched uranium), and uranium enrichment and related services is retained and will prohibit the Department from competing with private sector entities in the sale of enriched uranium and uranium enrichment and related services.

Section 5(b) amends current law to clarify that privatization will not affect the terms of, or the rights and obligations of the parties to, power purchase contracts executed by the Department prior to the transition date and that relate to uranium enrichment, but which the Secretary determined were not transferable to the Corporation. The section also adds a new subsection (3) to section 1401(b) to clarify the effect of the transfer of the contracts, agree-

ments and leases entered into by the U.S. Government through the Department or its predecessors which were transferred to the Corporation pursuant to section 1401(b) of the AEA. Subsection (3)(A) provides that as a result of the transfer, all rights, privileges and benefits under the contracts, agreements and leases, including the right to amend, modify, extend, revise or terminate any of the contracts, agreements or leases, were irrevocably assigned to the Corporation for its exclusive benefit. As a consequence, no U.S. Government consent shall be required for any amendment, modification, extension, revision or termination of any of the contracts, agreements or leases. Subsections (3)(B) and (C) provide that notwithstanding the transfer of the contracts, agreements and leases to the Corporation, the United States will remain obligated to the parties to the contracts, agreements and leases until such time as the contracts, agreements or leases are materially modified or terminated. In addition, the Corporation will be obligated to fully reimburse the United States for amounts paid by the United States for fulfilling obligations under the contracts, agreements and leases arising after the privatization date to the extent such amounts are legal and valid obligations of the Corporation then due.

Section 5(c) simply authorizes the Corporation to establish prices for its products and service that will allow it to attain the normal business objectives of a profitmaking corporation.

Section 5(d) amends section 1403 of the AEA by adding a new subsection (h) relating to the disposal of low-level radioactive waste and mixed waste created in the course of the Corporation's operations. It authorizes the corporation to request that DOE accept low-level radioactive waste and mixed waste generated as a result of the operations of the facilities and related property leased by the Corporation from the Department or as a result of off-site treatment of such wastes. It further provides that all low-level radioactive wastes and mixed wastes that the Department accepts for treatment, storage, or disposal shall be deemed to be generated by the Department. The Corporation is directed to reimburse DOE for the treatment, storage or disposal of such waste in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for similar services. The section also authorizes the Corporation to enter into agreements for the treatment, storage or disposal of low-level radioactive waste and mixed waste with any person other than the Department that is authorized by applicable laws and regulations to treat, store or dispose of such wastes.

Section 5(e) provides that liabilities based on operations of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States and that any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation during such period will be considered a judgment against the United States. In the event the privatization does not occur, the Corporation shall retain all liabilities based on operations of the Corporation from the transition date. After privatization, liabilities arising from operation of the uranium enrichment enterprise would be borne by the private investors of the Corporation.

Section 5(f) adds a new section 1409 authorizing the Secretary of Energy to transfer to the Corporation, without charge and before the privatization date, raw uranium, low-enriched uranium and highly enriched uranium inventories of the Department. It is expected that the Government will receive fair value for any such inventories transferred to the Corporation by way of additional proceeds to the U.S. Treasury from the privatization of the Corporation.

SECTION 6. PRIVATIZATION OF THE CORPORATION

Section 6(a) amends chapter 25 of title II of the AEA by adding a new section 1503 that authorizes the Corporation to establish a corporation for purses of implementing privatization and set forth certain other matters with respect to such corporation. Under section 1503(a), the corporation may be organized under the law of any State. The corporation will have among its purposes to help maintain a reliable and economical domestic source of uranium enrichment services and will be authorized to exercise the rights of the Corporation under the AEA, including enriching uranium. In addition, the corporation will have such purposes and powers as are set forth in its articles or certificate of incorporation and as are provided under the laws of the jurisdiction of its organization. For purposes of implementing the privatization, the Corporation is authorized to (i) transfer some or all of its assets (including funds, contracts and leases) and liabilities to the corporation, and (ii) merge or consolidate with the corporation if such action is contemplated by the plan for privatization approved by the President. The Board of Directors of the Corporation is authorized to approve such merger or consolidation and to take all further actions necessary in connection with it, without shareholder action. The section also provides that the merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation and all rights and benefits provided under the AEA to the Corporation shall apply to the surviving corporation as if it were the Corporation. Additionally, no income, gain or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with the corporation in connection with the privatization, or any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

Section 1503(b) provides that for purposes of the regulation of radiological and non-radiological hazards under the Occupational Safety and health Act of 1970, the corporation will be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission (NRC). Any interagency agreement entered into between the NRC and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities will apply to the corporation as if it were an NRC licensee.

Section 1503(c) provides the corporation will not be an agency, instrumentality, or established of the United States Government and shall not be a Government corporation, and that obligations of the corporation will not be obligations of the United States.

Section 1503(d) provides that in the event the privatizations is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted within 1 year of the date shares are first offered to the public pursuant to such offering.

Section 1503(e) provides that the Secretary of Energy shall not allow the privatization by means of a public offering unless the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.

Section 6(b) amends title II of the AEA by adding a new section 1504 which provides that if the privatization is implemented by a public offering, during a three-year period following privatization, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The ownership limitation would not apply (i) to any employee stock ownership plan of the Corporation, (ii) to underwriting syndicates holding shares for resale, or (iii) in the case of shares beneficially held for others, to commmerecial banks, broker-dealers, clearing corporations, or other nominees. Subsection (c) of section 1504 provides that directors, officers and employees of the Corporation may not acquire any securities, or any right to acquire securities, of the Corporation (1) in the public offering implementing the privatization, (2) pursuant to any agreement, arrangement or understanding entered into before the privatization date, or (3) before the election of directors of the Corporation under section 1503(d), on any terms more favorable than those offered to the public. These protections are necessary to ensure that privatization decisions made by the officers, directors and employees of the Corporation benefit the public interest in maximizing the return to the taxpayer from the sale of this asset and to assure that peresonal financial considerations not interfere with the decision-making process as various privatization options are considered. The provision ensure that stock options and employee benefits packages are delinked from the privatization process itself.

Section 6(c) amends title of the AEA by adding a new section 1505. Subsection (a) of section 1505 exempts each director, officer, employee and agent of the Corporation from liability if such person were fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person. Section 1505(b) provides that the privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. Under existing law, the Corporation would be exempt from the Federal securities laws until the privatization date. Section 1505(b) makes clear that the Corporation's general exemption from the Federal securities laws, however, will not apply to the privatization transaction. Section 1505(b) also provides that claims based on Federal or State securities laws and arising out of a public offering in connection with the privatization will be excluded the exemption in section 1505(a).

Section 6(d) amends title II of the AEA by adding a new section 1506 that provides that the Corporation shall not be considered to be in breach, default, or violations of any agreement to which it is

a party because of any provision of chapter 25 or any action the Corporation is required to take thereunder. The section also states that the United States withdraws its consent to be sued with respect to any claim arising out of or resulting from any act of omission under chapter 25 of the AEA. Consequently, the United States will not be subject to any claims, for example, arising under the Federal securities laws in connection with the privatization transaction, notwithstanding the fact that under section 1505(b) the privatization is subject to the Securities Act of 1933 and the Securities Exchange Act of 1934.

Section 6(e) amends title II of the AEA by adding a new section 1507 that provides that the proceeds to the U.S. Government from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such act, notwithstanding section 257(e) of such act which generally prohibits counting asset sales as offsets to spending.

Section 6(f) amends section 193 of the AEA by adding a new subsection (f) that provides that if the privatization of the Corporation results in the Corporation being (1) owned, controlled, or dominated by a foreign corporation or a foreign government, or (2) inimical to the common defense or security of the United States, then any license held by the Corporation under sections 53 and 63 of the AEA shall be terminated. This language ensures that uranium enrichment activities will be subject to the same foreign ownership limitations as any other nuclear production or utilization facility. It is expected that any interpretation of the terms in new subsection (f) would be consistent with the historical administrative interpretation of similar language in sections 103, 104 and 1502(a) of the AEA.

Section 6(g) amends section 1502(d) of the AEA to provide that the Corporation may not implement its privatization plan less than 60 days after the date of the report to Congress by the Comptroller General under section 1502(c). The Comptroller General is obligated under section 1502(c) to deliver its report to Congress evaluating the privatization plan within 30 days of Congress being notified of the Corporation's intent to implement the privatization plan. Accordingly, the Corporation will now have a minimum waiting period of 90 days after notifying Congress of its intent to implement its privatization plan before the Corporation may actually implement the plan.

SECTION 7. PERIODIC CERTIFICATION OF COMPLIANCE

This section provides that the Corporation shall be required to apply to the Nuclear Regulatory Commission for a certificate of compliance under section 1701(c)(1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years. This change will conform the certification requirement to existing NRC licensing timeframes.

SECTION 8. LICENSING OF OTHER TECHNOLOGIES

Section 8 amends section 1702(a) of the AEA to provide that Corporation facilities using AVLIS technology will be licensed under

sections 53 and 63 of the AEA. Other uranium enrichment technologies are currently eligible for one-step licensing, and this provision simply ensures equal treatment for all enrichment technologies.

SECTION 9. CONFORMING AMENDMENTS

This section provides for repeal of certain provisions of the Atomic Energy Act. Upon privatization of the Corporation, certain provisions of the AEA generally relating to the organization and governance of the Corporation as a federal agency, as well as provisions granting the Corporation certain rights such as an exemption from state and local property taxes, would be inconsistent with the governance and rights of a corporation owned by private investors. Accordingly, such provisions are repealed following privatization. This section also provides that following privatization, references to the Corporation under title I of the AEA shall be deemed to mean the Corporation referred to in section 1201 of the AEA, and section 9101(3)(N) of title 31, United States Code shall be deleted.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ATOMIC ENERGY ACT OF 1954

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TITLE I—ATOMIC ENERGY

* * * * * * *

CHAPTER 2. DEFINITIONS

SEC. 11. DEFINITION.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

a. * * *

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v. The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility [or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology], such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

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CHAPTER 16. JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

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SEC. 193. LICENSING OF URANIUM ENRICHMENT FACILITIES.

(a) * * *

* * * * * * *

(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.

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TITLE II—UNITED STATES ENRICHMENT CORPORATION

CHAPTER 22—GENERAL PROVISIONS

SEC. 1201. DEFINITIONS.

For purposes of this title:

(1) * * *

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(4) The term ''Corporation'' means the United States Enrichment Corporation *and any successor corporation established through privatization of the Corporation*.

* * * * * * *

(10) The term ''low-level radioactive waste'' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

(11) The term ''mixed waste'' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

(12) The term ''privatization'' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

(13) The term ''privatization date'' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.

[(10)**]** *(14)* The term ''releases'' has the meaning given the term ''release'' in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

[(11)**]** *(15)* The term ''remedial action'' has the meaning given such term in section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

[(12)**]** *(16)* The term ''response actions'' has the meaning given the term ''response'' in section 101(25) of the Comprehen-

sive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

[(13)] *(17)* The term "Secretary" means the Secretary of Energy.

(18) The term "transition date" means July 1, 1993.

[(14)] *(19)* The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

[SEC. 1202. PURPOSES.

[The Corporation is created for the following purposes:

[(1) To operate as a business enterprise on a profitable and efficient basis.

[(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

[(3) To lease Department uranium enrichment facilities, as needed.

[(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

[(5) To market and sell its enriched uranium and uranium enrichment and related services to—

[(A) the Department for governmental purposes; and

[(B) domestic and foreign persons, as provided in section 1303(6).

[(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

[(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

[(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

[(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

[(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

[(11) To take all other lawful actions in furtherance of these purposes.]

CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

[SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

[(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

[(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to

chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

[(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

[SEC. 1302. CORPORATE OFFICES.

[The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

[SEC. 1303. POWERS OF THE CORPORATION.

[In order to accomplish its purposes, the Corporation—

[(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incorporated under the District of Columbia Business Corporation Act;

[(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

[(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

[(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium provided under section 1408);

[(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

[(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

[(A) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

[(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

[(C) persons otherwise authorized by law to enter into such transactions;

[(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

[(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

[(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium en-

richment and related services that the Department determines from time to time are required for it to—

[(A) carry out Presidential directions and authorizations under section 91; and

[(B) conduct other Department programs.

[SEC. 1304. BOARD OF DIRECTORS.

[(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

[(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

[(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

[(d) TERMS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the election of a new Board of Directors under section 1704, whichever comes first.

[(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

[(A) 1 shall be appointed for a 1-year term;

[(B) 1 shall be appointed for a 2-year term;

[(C) 1 shall be appointed for a 3-year term; and

[(D) 1 shall be appointed for a 4-year term.

[(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

[(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

[(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. Three voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

[(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

[(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

[(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as a member of the Board or as a nonvoting, ex officio member of the Board.

[(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.]

[SEC. 1305. EMPLOYEES OF THE CORPORATION.

[(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

[(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

[(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

[(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

[(e) PROTECTION OF EXISTING EMPLOYEES.—

[(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

[(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

[(A) the earlier of the date on which a new bargaining agreement is signed; or

[(B) the end of the 2-year period beginning on the date of the enactment of this title.

[(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).]

(a) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

(b) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.

[(4)] *(c)* BENEFITS OF TRANSFEREES [AND DETAILEES].—[At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System.] For those employees who accept transfer to the Corporation *from other Federal employment*, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. [For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.

[SEC. 1306. AUDITS.

[(a) INDEPENDENT AUDITS.—

[(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

[(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

[(b) GAO AUDITS.—

[(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

[(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

[(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General, subject to section 1314.

[(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other

audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

[SEC. 1307. ANNUAL REPORTS.

[(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

[(1) a general description of the Corporation's operations;

[(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

[(3) copies of audit reports prepared under section 1305;

[(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

[(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

[(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

[SEC. 1308. ACCOUNTS.

[(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the "United States Enrichment Corporation Fund", which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

[(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

[SEC. 1309. OBLIGATIONS.

[(a) ISSUANCE.—

[(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as "bonds"), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

[(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of re-

serve funds and other funds that may be similarly pledged and used.

[(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

[(A) the establishment of reserve and other funds;

[(B) stipulations concerning the subsequent issuance of bonds; and

[(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

[(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

[(c) TERMS AND CONDITIONS.—

[(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

[(2) ROLE OF SECRETARY OF THE TREASURY.—

[(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

[(i) Their forms and denominations.

[(ii) The times, amounts, and prices at which they are sold.

[(iii) Their rates of interest.

[(iv) The terms at which they may be redeemed by the Corporation before maturity.

[(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

[(vi) Any other terms and conditions.

[(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

[(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

[(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

[SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

[(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the

Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

[(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

[(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

[(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

[(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

[(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

[SEC. 1311. COOPERATION WITH OTHER AGENCIES.

[The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

[SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

[(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

[(1) The Sherman Act (15 U.S.C. 1–7).

[(2) The Clayton Act (15 U.S.C. 12–27).

[(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

[(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of en-

forcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term ''person'' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

[(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

[(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

[(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

[(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

[SEC. 1313. SECURITY.

[Any references to the term ''Commission'' or to the Department in sections 161k., 221a., and 230 shall be considered to include the Corporation.

[SEC. 1314. CONTROL OF INFORMATION.

[(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secrets and commercial or financial information to the same extent as a privately owned corporation.

[(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the

confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

[SEC. 1315. TRANSITION.

[(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

[(b) POWERS.—

[(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

[(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board has not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

[(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

[(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

[(1) continue to be responsible for the management and operation of the uranium enrichment plants;

[(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

[(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

[(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

[(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

[(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

[SEC. 1316. WORKING CAPITAL ACCOUNT.

[There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.]

CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

(a) [EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States

Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services.**]** *MARKETING AUTHORITY.*—The Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

(b) TRANSFER OF CONTRACTS.—

(1) * * *

(2) EXCEPTIONS.—

(A) * * *

(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost. *The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract.*

(3) EFFECT OF TRANSFER.—

(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.

[SEC. 1402. PRICING.

[(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and services provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

[(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its

costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.]

SEC. 1402. PRICING.

The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.

(a) * * *

* * * * * * *

(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste gen-

erated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.

[SEC. 1404. CAPITAL STRUCTURE OF CORPORATION.

[(a) CAPITAL STOCK.—

[(1) ISSUANCE TO SECRETARY OF THE TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

[(A) $3,000,000,000; or

[(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to management of the Corporation shall remain vested in the Board.

[(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

[(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

[(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

[(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

[(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

[SEC. 1405. PATENTS AND INVENTIONS.

[The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.]

SEC. 1406. LIABILITIES.

(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION *AND PRIVATIZATION*.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department. *As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.*

(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION *AND PRIVATIZATION*.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the transition date shall be considered a judgment against and shall be payable solely by the Department. *As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.*

* * * * * * *

(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION *AND PRIVATIZATION*.—Any judgment entered against the Corporation arising from operations of the Corporation on or after [the transition date] *the privatization date (or, in the event the privatization date does not occur, the transition date)* shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

* * * * * * *

SEC. 1408. TRANSFER OF URANIUM.

The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.

SEC. [1408.] *1409.* PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION.

(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

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CHAPTER 25—PRIVATIZATION OF THE CORPORATION

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SEC. 1502. PRIVATIZATION.

(a) * * *

* * * * * * *

(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan [less than 60 days after notification of the Congress] *less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c).*

SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

(B) To undertake any and all activities as provided in its corporate charter.

(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

(iii) persons otherwise authorized by law to enter into such transactions;

(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its

assets and obligations to the corporation established pursuant to this section, including—

(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

(5) TAX TREATMENT OF PRIVATIZATION.—

(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

(c) LEGAL STATUS OF PRIVATE CORPORATION.—

(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.

SEC. 1504. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

(b) APPLICATION.—Subsection (a) shall not apply—

(1) to any employee stock ownership plan of the Corporation,

(2) to underwriting syndicates holding shares for resale, or

(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

(1) in the public offering of securities of the Corporation in the implementation of the privatization,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.

SEC. 1505. EXEMPTION FROM LIABILITY.

(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person

in good faith reasonably believed to be required by law or vested in such person.

(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.

SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.

CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

[SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION.

[(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

[(1) an evaluation of market conditions together with a marketing strategy;

[(2) an analysis of the economic viability of competing enrichment technologies;

[(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

[(4) an estimate of potential earnings from the licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

[(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

[(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

[(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.]

* * * * * * *

[SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

[The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

[(1) completion of preapplication activities with the Nuclear Regulatory Commission;

[(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

[(3) confirmation of technical performance;

[(4) validation of economic projections;

[(5) completion of feasibility and risk studies;

[(6) initiation of preliminary plant design and engineering; and

[(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

[SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

[(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

[(b) LEGAL STATUS OF PRIVATE CORPORATION.—

[(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government controlled corporation.

[(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

[(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

[(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

[(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

[(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

[(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that—

[(A) provides the private corporation with a reasonable return on its investment; and

[(B) is less costly than enriched uranium available from other sources.

[(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

[SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

[(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Cor-

poration from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

[(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

[(1) expenses of the Corporation in preparing the assessment under section 1601;

[(2) expenses of predeployment activities under section 1603; and

[(3) grants to the private corporation under section 1604.

[(c) LIMITATIONS.—

[(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

[(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

[(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

[SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

[If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

[SEC. 1607. SITE SELECTION.

[This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.]

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CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

SEC. 1701. GASEOUS DIFFUSION FACILITIES.

(a) * * *

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(c) CERTIFICATION PROCESS.—

(1) * * *

(2) [ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the

Nuclear Regulatory Commission for a certificate of compliance under paragraph (1).] *PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.* The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

* * * * * * *

SEC. 1702. LICENSING OF OTHER TECHNOLOGIES.

(a) IN GENERAL.—Corporation facilities using alternative technologies for uranium enrichment, [other than] *including* AVLIS, shall be licensed under sections 53 and 63.

* * * * * * *

SECTION 1018 OF THE ENERGY POLICY ACT OF 1992

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Corporation" means [the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.] *the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.*

* * * * * * *

SECTION 9101 OF TITLE 31, UNITED STATES CODE

§ 9101. Definitions

In this chapter—

(1) * * *

* * * * * * *

(3) "wholly owned Government corporation" means—

(A) * * *

* * * * * * *

[(N) the Uranium Enrichment Corporation.]

* * * * * * *

MINORITY VIEWS

H.R. 1216—"USEC PRIVATIZATION ACT"

Privatization of the U.S. Uranium Enrichment Corporation is a major priority, both in terms of fulfilling the objectives of current law and in terms of the impact which the sale of this government asset will have on the budget.

In the majority's rush to generate revenues to finance tax cuts, however, the Committee allowed itself to be swept up in a hasty and imprudent process. As a result, the Committee and the Congress are largely in the dark as to whether, in fact, we have done our duty to the American taxpayer by ensuring that the Corporation will be sold on optimal terms.

The Corporation was established pursuant to the Energy Policy Act of 1992, legislation which was enacted on a bipartisan basis. In order to improve its prospects for a successful transition to private ownership, the Corporation has asked Congress to amend the law in several respects.

Owing to the complexity of the issue, and changed circumstances since 1992, the effects of any such amendments are unclear, both in terms of prospects for privatization and the impact on the taxpayer. As a result, it is important that the Committee consider these proposals carefully. Moreover, there is no reason this work should not be done in a bipartisan fashion.

In view of this, it is particularly regrettable that the Committee rushed consideration of this legislation. There have been no legislative hearings on H.R. 1216 or other proposed amendments. In fact, responses to Chairman Schaefer's questions following a February 24 oversight hearing on the Corporation have not been received, leaving the record incomplete. To make matters worse, H.R. 1216 was introduced less than forty-eight hours before the markup, the Subcommittee on Energy and Power was discharged of its duties, and there was little time for review of amendments—some of which were offered to correct errors in H.R. 1216 itself.

As a result, the bill does not address the major issues which the Corporation and Chairman Schaefer's unanswered letters raise, and which need to be resolved if we are to give the complicated issues surrounding privatization the consideration they require. These matters include application of the antitrust laws, rights to sensitive technology, and disposition of recycled Soviet weapons materials under a contract the Corporation entered into in 1994, including the difficult issue of matched sales.

Why this rush? Certainly the sale of a government asset valued in the billions deserves more careful attention than this process provided. The explanation lies in the majority's blind rush to generate savings and proceeds to finance its planned tax cuts, on a schedule which precludes rational consideration by the Committee.

From what we can discern from press reports, those Republican tax cuts are intended primarily to benefit the wealthiest few at the expense of ordinary middle class Americans. In the absence of a better use to which to put these privatization funds, most minority members supported an amendment offered by Mr. Brown which would have directed the proceeds from the sale of the Corporation towards deficit reduction.

The minority objects to the unfair and unwise process by which the Committee reported H.R. 1216, and in particular to being deprived of any real opportunity to ensure that American taxpayers are not cheated out of the benefits which ought to flow from the sale of a substantial government asset. It is an odd day indeed when, in the name of tax reduction, we instead put the taxpayer's interests at risk through careless legislating.

JOHN D. DINGELL.
HENRY A. WAXMAN.
EDWARD J. MARKEY.
BILLY TAUZIN.
RON WYDEN.
RALPH M. HALL.
JOHN BRYANT.
RICH BOUCHER.
THOMAS J. MANTON.
EDOLPHUS TOWNS.
GERRY E. STUDDS.
FRANK PALLONE, Jr.
SHERROD BROWN.
BLANCHE LAMBERT LINCOLN.
BART GORDON.
ELIZABETH FURSE.
PETER DEUTSCH.
BOBBY L. RUSH.
ANNA G. ESHOO.
RON KLINK.
BART STUPAK.

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